



**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO**

Document Scanning Lead Sheet

Dec-28-2017 12:07 pm

Case Number: CGC-17-563382

Filing Date: Dec-28-2017 12:00

Filed by: ROSSALY DELAVEGA

Image: 06158781

COMPLAINT

ECOLOGICAL RIGHTS FOUNDATION VS. COST PLUS INC.

001C06158781

Instructions:

Please place this sheet on top of the document to be scanned.

SUMMONS (CITACION JUDICIAL)

NOTICE TO DEFENDANT: (AVISO AL DEMANDADO):

Cost Plus, Inc.

YOU ARE BEING SUED BY PLAINTIFF: (LO ESTÁ DEMANDANDO EL DEMANDANTE):

Ecological Rights Foundation

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 o más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:

(El nombre y dirección de la corte es): Superior Court of the State of California

County of San Francisco

400 McAllister Street, San Francisco, CA 94102

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Fredric Evenson, P.O. Box 1000, Santa Cruz, CA 95061; (831) 454-8216; evenson@ecologylaw.com

CA CASE NUMBER:
(Número del caso):

CGG-17-563382

DATE:

(Fecha)

DEC 28 2017

CLERK OF THE COURT

Clerk, by
(Secretario)

Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para probar la entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):

3. ☒ on behalf of (specify):

under: ☒ CCP 416.10 (corporation)

☐ CCP 416.20 (defunct corporation)

☐ CCP 416.40 (association or partnership)

☐ other (specify):

4. ☐ by personal delivery on (date):

☐ CCP 416.60 (minor)

☐ CCP 416.70 (conservatee)

☐ CCP 416.90 (authorized person)

BY FAX
ONE LEGAL LLC



1 Christopher Sproul (State Bar No. 126398)
2 ENVIRONMENTAL ADVOCATES
3 5135 Anza Street
4 San Francisco, California 94121
5 Telephone: (415) 533-3376, (510) 847-3467
6 Facsimile: (415) 358-5695
7 Email: csproul@enviroadvocates.com

8 Fredric Evenson (State Bar No. 198059)
9 ECOLOGY LAW CENTER
10 P.O. Box 1000
11 Santa Cruz, California 95061
12 Telephone: (831) 454-8216
13 Email: evenson@ecologylaw.com

14 Counsel for Plaintiff, ECOLOGICAL RIGHTS FOUNDATION

15 SUPERIOR COURT OF THE STATE OF CALIFORNIA

16 COUNTY OF SAN FRANCISCO

17 ECOLOGICAL RIGHTS FOUNDATION,

18 Plaintiff,

19 v.

20 COST PLUS INC.,

21 Defendant.

FILED
San Francisco County Superior Court
DEC 28 2017
BY: [Signature] CLERK OF THE COURT
Deputy Clerk

Case No.

CGC-17-563382

COMPLAINT FOR INJUNCTIVE
RELIEF AND CIVIL PENALTIES

Health & Safety Code § 25249.5 et seq.

[Other – Proposition 65]

22
23
24
25
26
27
28
BY FAX
ONE LEGAL LLC

Plaintiff, Ecological Rights Foundation, in the public interest, based on information and belief, and knowledge and investigation of counsel allege as follows:

INTRODUCTION

1. This Complaint seeks civil penalties and an injunction against Cost Plus, Inc. (“Defendant”) to remedy Defendant’s continuing failure to warn individuals in California about exposures to carbon monoxide, a chemical known to the State of California to cause reproductive toxicity. Such exposures have occurred and continue to occur, through the use of portable wood-fired pizza ovens that Defendant markets, distributes and/or sells in the State (“Products”). These Products are intended to be used with wood fuel and are used for cooking. The combustion of wood in portable wood-fired pizza ovens causes carbon monoxide to be released into the air. People using portable wood-fired pizza ovens, and those standing near the Products when they are in use, inhale the released carbon monoxide.

2. Under California's Proposition 65, California Health & Safety Code § 25249.5, *et seq.*, it is unlawful for businesses to knowingly and intentionally expose individuals in California to chemicals known to the State to cause cancer, birth defects, or other reproductive harm without providing clear and reasonable warnings to individuals prior to their exposure. Defendant introduces portable wood-fired pizza ovens into the California marketplace, exposing users of the Products, including pregnant women, to carbon monoxide. Despite the fact that Defendant exposes pregnant women and other consumers and individuals to carbon monoxide, Defendant does not provide clear and reasonable warnings about the reproductive hazards associated with such exposures. Defendant's conduct thus violates the warning provision of Proposition 65. Health & Safety Code § 25249.6.

3. Plaintiff seeks injunctive relief pursuant to Health & Safety Code Section 25249.7 to compel Defendant to bring its business practices into compliance with Proposition 65 by providing a clear and reasonable warning to each individual who has been and who in the future may be exposed to carbon monoxide in the ways set forth above. Plaintiff seeks an order that Defendant identify and locate each individual person to whom the Defendant conveyed Products during the past three years and to provide to each such individual, as well as new purchasers and Product users, a clear and

1 reasonable warning that use of the Products causes exposures to a chemical known to cause birth
2 defects and other reproductive harm.

3 4. In addition to injunctive relief, Plaintiff seeks civil penalties to remedy Defendant's failure
4 to provide clear and reasonable warnings regarding exposure to a chemical known to cause birth
5 defects and other reproductive harm.

6 PARTIES

7 5. Plaintiff, Ecological Rights Foundation ("EcoRights") is a non-profit public benefit
8 organization dedicated to, among other causes, protecting California residents from toxic exposures,
9 environmental and human health education, and consumer rights. Ecological Rights Foundation is
10 incorporated under the laws of the State of California and is a "person" pursuant to Health & Safety
11 Code §25249.11(a). EcoRights brings this enforcement action in the public interest pursuant to
12 Health & Safety Code §25249.7(d).

13 6. Cost Plus, Inc. is a person in the course of doing business within the meaning of Health &
14 Safety Code §25249.11(b). Cost Plus, Inc. markets, distributes, and/or sells the Products for sale
15 and use in the State of California.

16 7. Defendant employs more than ten people.

17 JURISDICTION

18 8. The Court has jurisdiction over this action pursuant to California Health & Safety Code
19 Section 25249.7. California Constitution Article VI, Section 10 grants the Superior Court "original
20 jurisdiction in all causes except those given by statute to other trial courts." Chapter 6.6 of the
21 Health & Safety Code, which contains the statutes under which this action is brought, does not
22 grant jurisdiction to any other trial court.

23 9. This Court also has jurisdiction over Defendant because it is a business that has sufficient
24 minimum contacts in California and within the County of San Francisco. Defendant intentionally
25 availed itself of the California and San Francisco County markets. It is thus consistent with
26 traditional notions of fair play and substantial justice for the San Francisco County Superior Court
27 to exercise jurisdiction over Defendants.

1 10. Venue is proper in San Francisco County Superior Court because one or more of the
2 violations arise in the County of San Francisco.

3 **BACKGROUND**

4 11. The People of the State of California have declared by initiative under Proposition 65 their
5 right “[t]o be informed about exposures to chemicals that cause cancer, birth defects, or other
6 reproductive harm.” Proposition 65, § 1(b). To effectuate this goal, Proposition 65 prohibits exposing
7 people to chemicals listed by the State of California as known to cause cancer, birth defects, or other
8 reproductive harm without a “clear and reasonable warning” unless the business responsible for the
9 exposure can prove that it fits within a statutory exemption. Health & Safety Code Section 25249.6
10 states, in pertinent part:

11 No person in the course of doing business shall knowingly and
12 intentionally expose any individual to a chemical known to the state to cause
cancer or reproductive toxicity without first giving clear and reasonable warning
to such individual . . .

13 12. On July 1, 1989, the State of California officially listed carbon monoxide as a chemical
14 known to cause developmental reproductive toxicity, which means harm to the developing fetus. On
15 July 1, 1990, carbon monoxide exposures became subject to the clear and reasonable warning
16 requirements under Proposition 65. 27 C.C.R. § 27001(b); Health & Safety Code Section
17 25249.10(b).

18 13. Plaintiff brings this enforcement action against Defendant pursuant to Health & Safety Code
19 Section 25249.7(d). Attached hereto and incorporated by reference is a copy of the Notice of
20 Violation dated September 1, 2017, which on that date EcoRights sent to California's Attorney
21 General, every county District Attorney in California, and to the City Attorneys of every California
22 City with a population greater than 750,000. In compliance with Health & Safety Code § 25249.7(d)
23 and 27 C.C.R. § 25903(b), the Notice included the following information: (1) the name and address
24 of each violator; (2) the statute violated; (3) the time period during which violations occurred; (4)
25 specific descriptions of the violations, including (a) the routes of exposure to carbon monoxide from
26 the Products, and (b) the specific type of Products sold and used in violation of Proposition 65; and
27 (5) the name of the specific Proposition 65-listed chemical that is the subject of the violations
28 described in each Notice.

1 14. Attached to the Notice of Violation sent to the Defendant was a summary of Proposition 65
2 that was prepared by California's Office of Environmental Health Hazard Assessment. In addition,
3 the Notice of Violation was accompanied by a Certificate of Service attesting to the service of the
4 Notice of Violation on each entity which received it. Pursuant to Health & Safety Code Section
5 25249.7(d) and 11 C.C.R. § 3101, Plaintiff also sent a Certificate of Merit with the Notice of
6 Violation attesting to the reasonable and meritorious basis for the action. Plaintiff enclosed factual
7 information sufficient to establish the basis of the Certificate of Merit with the Notice of Violation
8 letter sent to the Attorney General.

9 15. None of the public prosecutors with the authority to prosecute violations of Proposition 65
10 has commenced and/or is diligently prosecuting a cause of action against Defendant under Health &
11 Safety Code Section 25249.5 *et seq.*, based on the claims asserted in EcoRights' Notice.

12 16. Defendant both knows and intends that individuals, including pregnant women, will use the
13 Products for cooking, thus exposing them to carbon monoxide. Under Proposition 65, an exposure
14 is "knowing" where the party responsible for such exposure has "knowledge of the fact that a[n] . . .
15 exposure to a chemical listed pursuant to [Health & Safety Code § 25249.8(a)] is occurring. No
16 knowledge that . . . exposure is unlawful is required." 27 C.C.R. § 25102(n). This knowledge may
17 be either actual or constructive. *See, e.g.*, Final Statement of Reasons Revised (November 4, 1988)
18 (pursuant to former 22 C.C.R. Division 2, § 12201). Defendant has been informed of the carbon
19 monoxide exposures caused by the use of Products by the 60-Day Notice of Violation, and the
20 accompanying Certificate of Merit served on it by EcoRights. Defendant also has constructive
21 knowledge of the carbon monoxide exposures caused by Products. As a company that manufactures,
22 markets, distributes and/or sells the Products for use in the State of California, Defendant knows or
23 should know that carbon monoxide exposures to users of the Products are a natural and foreseeable
24 consequence of Defendant's placing the Products into the stream of commerce.

25 17. Any person "violating or threatening to violate" Proposition 65 may be enjoined in any
26 court of competent jurisdiction. Health & Safety Code § 25249.7. "Threaten to violate" is defined to
27 mean "to create a condition in which there is a substantial probability that a violation will occur."
28 Health & Safety Code § 25249.11(e). Proposition 65 provides for civil penalties not to exceed \$2,500

1 per day for each violation of the statute.

2 18. EcoRights has engaged in good faith efforts to resolve the claims alleged herein prior to
3 filing this complaint.

4 **FIRST CAUSE OF ACTION**

5 **(Violations of Health & Safety Code §25249.6)**

6 19. EcoRights realleges and incorporates the facts and allegations contained in the above
7 paragraphs as though specifically set forth herein.

8 20. That Defendant is a person in the course of doing business within the meaning of Health &
9 Safety Code § 25249.11(b) who, by manufacturing, marketing, distribution, sale or otherwise placing
10 the Products into the stream of commerce, violated, violates and threatens to violate Proposition 65.

11 21. Carbon monoxide is a chemical listed by the State of California as known to cause
12 developmental reproductive toxicity.

13 22. Defendant knows that the average use of the Products will expose users of the Products to
14 carbon monoxide. Defendant intends that the Products be used in a manner that results in exposures
15 to carbon monoxide.

16 23. Defendant has failed and continues to fail, to provide clear and reasonable warnings
17 regarding the reproductive toxicity of carbon monoxide to users of the Products.

18 24. Since at least three years prior to the Notice of Violation Letters, Defendant has violated
19 Proposition 65 by knowingly and intentionally exposing individuals to carbon monoxide without
20 first giving clear and reasonable warnings to such individuals regarding the reproductive toxicity of
21 carbon monoxide.

22 **PRAYER FOR RELIEF**

23 Wherefore, Plaintiff prays for judgment against Defendant as follows:

24 1. Pursuant to the First Cause of Action, that Defendant be enjoined, restrained, and
25 ordered to comply with the provisions of Section 25249.6 of the California Health &
26 Safety Code;

27 2. That Defendant be ordered to make best efforts to identify and locate each individual
28 in California to whom it, or its customers or agents, distributed or sold Products

1 during the past three years, and to provide a warning to each such person that use of
2 the Product will expose that person to a chemical known to cause birth defects and
3 other reproductive harm;

4 3. That Defendant be assessed a civil penalty in an amount equal to \$2,500.00 per day
5 per individual exposed to carbon monoxide in violation of Section 25249.6 of the
6 California Health & Safety Code, as the result of Defendants' marketing, distributing,
7 and/or selling the Products for use in California.

8 4. That, pursuant to Civil Procedure Code § 1021.5, Defendant be ordered to pay to
9 Plaintiff the attorneys' fees and costs it incurred in bringing this enforcement action;
10 and

11 5. For such other relief as this court deems just and proper.
12

13 Dated: December 26, 2017

ECOLOGY LAW CENTER

14
15 
16 _____
Fredric Evenson, Attorney for Plaintiff
17 ECOLOGICAL RIGHTS FOUNDATION
18
19
20
21
22
23
24
25
26
27
28

ECOLOGY LAW CENTER

P.O. Box 1000
SANTA CRUZ, CALIFORNIA 95061
TELEPHONE: (831) 454-8216
EMAIL: EVENSON@ECOLOGYLAW.COM

SEPTEMBER 1, 2017

NOTICE OF VIOLATIONS
CALIFORNIA SAFE DRINKING WATER AND
TOXIC ENFORCEMENT ACT

Cost Plus Inc. The Prentice-Hall Corporation System, Inc., Registered Agent 2711 Centerville Rd # 400 Wilmington, DE 19808-1660	Barry J. Feld, CEO Cost Plus, Inc. 1201 Marina Village Parkway Alameda, CA 94501
---	---

AND THE PUBLIC PROSECUTORS LISTED ON THE DISTRIBUTION LIST
ACCOMPANYING THE ATTACHED CERTIFICATE OF SERVICE

Re: Violations of Proposition 65 Concerning Carbon Monoxide Exposures from
Wood-Fired Pizza Ovens

In accord with California Health & Safety Code § 25249.7, Ecological Rights Foundation ("ERF") hereby gives you notice that the above company has violated and is in ongoing violation of California Health & Safety Code § 25249.6, which provides that "[n]o person in the course of doing business shall knowingly and intentionally expose any individual to a chemical known to the state to cause cancer or reproductive toxicity without first providing a clear and reasonable warning to such individual."

Pursuant to California Health & Safety Code § 25249.7, ERF intends to bring an enforcement action 60 days after effective service of this notice unless the public enforcement agencies have commenced and are diligently prosecuting an action to rectify the violations discussed in this notice letter. The public enforcement agencies that have been served with copies of this notice of violations are identified in the attached Certificate of Service.

This Notice of Violations ("Notice") is provided to you pursuant to and in compliance with California Health and Safety Code Section 25249.7(d). Attached for your reference is a summary, "Appendix A: The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary" prepared by the California Office of Environmental Health Hazard Assessment ("OEHHA"). Pursuant to Title 11, C.C.R. § 3100, a Certificate of Merit is also attached.

The above-referenced violations occur when California residents use portable wood-fired pizza ovens. These products are used primarily for cooking. Combustion of wood produces and exposes people to **carbon monoxide**, a chemical known to the State of California to cause reproductive toxicity. Because the combustion of wood causes carbon monoxide to be released into the air, people using wood-fired pizza ovens, and others standing near the products when wood is burning in or on the products, inhale carbon monoxide. Exposure to carbon monoxide is via the inhalation route.

Below is a non-exclusive list of examples of these types of products. Though specific models or SKU or product numbers are given as examples, this Notice pertains to all models, and all variations, of the specific type of product of which the named model is an example.

Portable wood-fired stone pizza oven UPC# 251392054811; SKU# 504972

This non-exclusive list of examples of the type of products that are subject to this Notice is for the recipient's benefit and is not meant to be an exhaustive or comprehensive identification of each specific offending product. It is ERF's position that the alleged Violator is obligated to conduct a good faith investigation into other specific products within the identified category or type that may have been manufactured, distributed, sold, shipped, stored (or otherwise within the notice recipient's custody or control) during the past three years, to ensure that clear and reasonable warnings are provided to California citizens prior to purchase, or retroactively if necessary.

These products cause carbon monoxide exposures to occur in people's yards and everywhere else throughout California where these products are used. These violations are alleged for consumer and environmental exposures.

The noticed party did not and does not provide people with clear and reasonable warnings before they expose them in California to carbon monoxide. The above-referenced violations have occurred every day since at least September 1, 2014 and will continue every day until clear and reasonable warnings are given.

ERF is a California non-profit corporation dedicated to protecting human and environmental health, including raising awareness of, and reducing exposures to, toxic chemicals. The following individual is the responsible individual within ERF for purposes of this Notice:

James Lamport, Executive Director
Ecological Rights Foundation
867 B Redwood Drive
Garberville, California 95542
Telephone: (707) 923-4372

ERF has retained the following counsel to represent them in this matter (please direct communications to counsel):

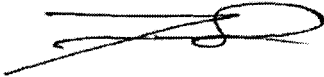
Fredric Evenson
Ecology Law Center
P.O. Box 1000
Santa Cruz, California 95061
Telephone: (831) 454-8216
Email: evenson@ecologylaw.com

Resolution of Noticed Claims:

ERF is interested in seeking a constructive resolution of this matter that advances the public interest without engaging in costly and protracted litigation. ERF is willing to settle this matter to the extent legally possible prior to the commencement of any enforcement action. Settlement terms would require that the unwarned exposures described in this Notice of Violation be stopped. That would require at least the following: 1) a potential recall of products already sold; 2) that either warnings be given to all future purchasers in California of the products subject to

this Notice, that the products be reformulated to eliminate the exposures described in the Notice, or that you stop marketing, distributing or selling the products in California; 3) that you locate and provide a warning compliant with 27 Cal. Code Regs Section 25601 to each person who has been subject to the unwarned exposures described in the Notice to the extent those exposures are caused by products that were sold in California during the past three years; and 4) that you pay an appropriate civil penalty based on the factors enumerated in California Health and Safety Code Section 25249(b). It should be noted that ERF cannot finalize any settlement of this matter until 70 days have elapsed since the sending of the Notice and unless no public enforcer has begun an enforcement action concerning the violations described in the Notice. Any settlement on behalf of the public interest must be approved by the California Superior Court on noticed motion with 45 days' notice to the California Attorney General. The Attorney General may appear at any approval hearing and oppose a settlement if he or she believes the proposed settlement is not in the public interest. If you wish to discuss settlement of this matter before ERF files suit, please promptly contact ERF's counsel.

Sincerely,



Fredric Evenson

27 CCR Appendix A
Appendix A

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986
(PROPOSITION 65): A SUMMARY

The following summary has been prepared by the California Office of Environmental Health Hazard Assessment (OEHHA), the lead agency for the implementation of the Safe Drinking Water and Toxic Enforcement Act of 1986 (commonly known as "Proposition 65"). A copy of this summary must be included as an attachment to any notice of violation served upon an alleged violator of the Act. The summary provides basic information about the provisions of the law, and is intended to serve only as a convenient source of general information. It is not intended to provide authoritative guidance on the meaning or application of the law. Please refer to the statute and OEHHA's implementing regulations (see citations below) for further information. FOR INFORMATION CONCERNING THE BASIS FOR THE ALLEGATIONS IN THE NOTICE RELATED TO YOUR BUSINESS, CONTACT THE PERSON IDENTIFIED ON THE NOTICE.

The text of Proposition 65 ([Health and Safety Code Sections 25249.5 through 25249.13](http://www.oehha.ca.gov/prop65/law/P65law72003.html)) is available online at:

<http://www.oehha.ca.gov/prop65/law/P65law72003.html>. Regulations that provide more specific guidance on compliance, and that specify procedures to be followed by the State in carrying out certain aspects of the law, are found in Title 27 of the California Code of Regulations, sections 25102 through 27001.¹ These implementing regulations are available online at: <http://www.oehha.ca.gov/prop65/law/P65Regs.html>.

WHAT DOES PROPOSITION 65 REQUIRE?

The "Proposition 65 List." Under Proposition 65, the lead agency (OEHHA) publishes a list of chemicals that are known to the State of California to cause cancer and/or reproductive toxicity. Chemicals are placed on the Proposition 65 list if they are known to cause cancer and/or birth defects or other reproductive harm, such as damage to female or male reproductive systems or to the developing fetus. This list must be updated at least once a year. The current Proposition 65 list of chemicals is available on the OEHHA website at: http://www.oehha.ca.gov/prop65/prop65_list/Newlist.html. Only those chemicals that are on the list are regulated under Proposition 65. Businesses that produce, use, release or otherwise engage in activities involving listed chemicals must comply with the following:

Clear and reasonable warnings. A business is required to warn a person before "knowingly and intentionally" exposing that person to a listed chemical unless an exemption applies. The warning given must be "clear and reasonable." This means that the warning must: (1) clearly say that the chemical involved is known to cause cancer, or birth defects or other reproductive harm; and (2) be given in such a way that it will effectively reach the person before he or she is exposed to that chemical. Some exposures are exempt from the warning requirement under certain circumstances discussed below.

Prohibition from discharges into drinking water. A business must not knowingly discharge or release a listed chemical into water or onto land where it passes or probably will pass into a source of drinking water. Some discharges are exempt from this requirement under certain circumstances discussed below.

DOES PROPOSITION 65 PROVIDE ANY EXEMPTIONS?

Yes. You should consult the current version of the statute and regulations (<http://www.oehha.ca.gov/prop65/law/index.html>) to determine all applicable exemptions, the most common of which are the following:

Grace Periods. Proposition 65 warning requirements do not apply until 12 months after the chemical has been listed. The Proposition 65 discharge prohibition does not apply to a discharge or release of a chemical that takes place less than 20 months after the listing of the chemical.

Governmental agencies and public water utilities. All agencies of the federal, state or local government, as well as entities operating public water systems, are exempt.

Businesses with nine or fewer employees. Neither the warning requirement nor the discharge prohibition applies to a business that employs a total of nine or fewer employees. This includes all employees, not just those present in California.

Exposures that pose no significant risk of cancer. For chemicals that are listed under Proposition 65 as known to the State to cause cancer, a warning is not required if the business causing the exposure can demonstrate that the exposure occurs at a level that poses "no significant risk." This means that the exposure is calculated to result in not more than one excess case of cancer in 100,000 individuals exposed over a 70-year lifetime. The Proposition 65 regulations identify specific "No Significant Risk Levels" (NSRLs) for many listed carcinogens. Exposures below these levels are exempt from the warning requirement. See OEHHA's website at: <http://www.oehha.ca.gov/prop65/getNSRLs.html> for a list of NSRLs, and Section 25701 *et seq.* of the regulations for information concerning how these levels are calculated.

Exposures that will produce no observable reproductive effect at 1,000 times the level in question. For chemicals known to the State to cause reproductive toxicity, a warning is not required if the business causing the exposure can demonstrate that the exposure will produce no observable effect, even at 1,000 times the level in question. In other words, the level of exposure must be below the "no observable effect level" divided by 1,000. This number is known as the Maximum Allowable Dose Level (MADL). See OEHHA's website at: <http://www.oehha.ca.gov/prop65/getNSRLs.html> for a list of MADLs, and Section 25801 *et seq.* of the regulations for information concerning how these levels are calculated.

Exposures to Naturally Occurring Chemicals in Food. Certain exposures to chemicals that naturally occur in foods (i.e., that do not result from any known human activity, including activity by someone other than the person causing the exposure) are exempt from the warning requirements of the law. If the chemical is a contaminant² it must be reduced to the lowest level feasible. Regulations explaining this exemption can be found in Section 25501.

Discharges that do not result in a "significant amount" of the listed chemical entering any source of drinking water. The prohibition from discharges into drinking water does not apply if the discharger is able to demonstrate that a "significant amount" of the listed chemical has not, does not, or will not pass into or probably pass into a source of drinking water, and that the discharge complies with all other applicable laws, regulations, permits, requirements, or orders. A "significant amount" means any detectable amount, except an amount that would meet the "no significant risk" level for chemicals that cause cancer or that is 1,000 times below the "no observable effect" level for chemicals that cause reproductive toxicity, if an individual were exposed to that amount in drinking water.

HOW IS PROPOSITION 65 ENFORCED?

Enforcement is carried out through civil lawsuits. These lawsuits may be brought by the Attorney General, any district attorney, or certain city attorneys. Lawsuits may also be brought by private parties acting in the public interest, but only after providing notice of the alleged violation to the Attorney General, the appropriate district attorney and city attorney, and the business accused of the violation. The notice must provide adequate information to allow the recipient to assess the nature of the alleged violation. The notice must comply with the information and procedural requirements specified in Section 25903 of Title 27 and sections 3100-3103 of Title 11. A private party may not pursue an independent enforcement action under Proposition 65 if

one of the governmental officials noted above initiates an enforcement action within sixty days of the notice.

A business found to be in violation of Proposition 65 is subject to civil penalties of up to \$2,500 per day for each violation. In addition, the business may be ordered by a court to stop committing the violation.

A private party may not file an enforcement action based on certain exposures if the alleged violator meets specific conditions. For the following types of exposures, the Act provides an opportunity for the business to correct the alleged violation:

- An exposure to alcoholic beverages that are consumed on the alleged violator's premises to the extent onsite consumption is permitted by law;
- An exposure to a Proposition 65 listed chemical in a food or beverage prepared and sold on the alleged violator's premises that is primarily intended for immediate consumption on- or off- premises. This only applies if the chemical was not intentionally added to the food, and was formed by cooking or similar preparation of food or beverage components necessary to render the food or beverage palatable or to avoid microbiological contamination;
- An exposure to environmental tobacco smoke caused by entry of persons (other than employees) on premises owned or operated by the alleged violator where smoking is permitted at any location on the premises;
- An exposure to listed chemicals in engine exhaust, to the extent the exposure occurs inside a facility owned or operated by the alleged violator and primarily intended for parking non-commercial vehicles.

If a private party alleges that a violation occurred based on one of the exposures described above, the private party must first provide the alleged violator a notice of special compliance procedure and proof of compliance form.

A private party may not file an action against the alleged violator for these exposures, or recover in a settlement any payment in lieu of penalties any reimbursement for costs and attorney's fees, if the notice was served on or after October 5, 2013, and the alleged violator has done *all* of the following within 14 days of being served notice:

- Corrected the alleged violation;
- Agreed to pay a civil penalty of \$500 (subject to change as noted below) to the private party within 30 days; and
- Notified the private party serving the notice in writing that the violation has been corrected.

The written notification to the private-party must include a notice of special compliance procedure and proof of compliance form completed by the alleged violator as directed in the notice. On April 1, 2019, and every five years thereafter, the dollar amount of the civil penalty will be adjusted by the Judicial Council based on the change in the annual **California** Consumer Price Index. The Judicial Council will publish the dollar amount of the adjusted civil penalty at each five-year interval, together with the date of the next scheduled adjustment.

An alleged violator may satisfy these conditions only one time for a violation arising from the same exposure in the same facility or on the same premises.

The satisfaction of these conditions does not prevent the Attorney General, a district attorney, a city attorney of a city of greater than 750,000 population, or any full-time city prosecutor with the consent of the district attorney, from filing an enforcement action against an alleged violator. The amount of any civil penalty for a violation shall be reduced to reflect any payment made by the alleged violator for the same alleged violation to a private-party.

A copy of the notice of special compliance procedure and proof of compliance form is included with this notice and can be downloaded from OEHA's website at: <http://oeha.ca.gov/prop65/law/p65law72003.html>. The notice is reproduced here:

Page 1

Date:

Name of Noticing Party or attorney for Noticing Party:

Address:

Phone number:

SPECIAL COMPLIANCE PROCEDURE PROOF OF COMPLIANCE

You are receiving this form because the Noticing Party listed above has alleged that you are violating **California Health and Safety Code §25249.6** (Prop. 65).

The Noticing Party may not bring any legal proceedings against you for the alleged violation checked below if:

1. You have actually taken the corrective steps that you have certified in this form
2. The Noticing Party has received this form at the address shown above, accurately completed by you, postmarked within 14 days of your receiving this notice
3. The Noticing Party receives the required \$500 penalty payment from you at the address shown above postmarked within 30 days of your receiving this notice.
4. This is the first time you have submitted a Proof of Compliance for a violation arising from the same exposure in the same facility on the same premises.

PART 1: TO BE COMPLETED BY THE NOTICING PARTY OR ATTORNEY FOR THE NOTICING PARTY

The alleged violation is for an exposure to: (check one)

☐ Alcoholic beverages that are consumed on the alleged violator's premises to the extent on-site consumption is permitted by law.

☐ A chemical known to the state to cause cancer or reproductive toxicity in a food or beverage prepared and sold on the alleged violator's premises for immediate consumption on or off premises to the extent: (1) the chemical was not intentionally added; and (2) the chemical was formed by cooking or similar preparation of food or beverage components necessary to render the food or beverage palatable or to avoid microbiological contamination.

☐ Environmental tobacco smoke caused by entry of persons (other than employees) on premises owned or operated by the alleged violator where smoking is permitted at any location on the premises.

☐ Chemicals known to the State to cause cancer or reproductive toxicity in engine exhaust, to the extent the exposure occurs inside a facility owned or operated by the alleged violator and primarily intended for parking noncommercial vehicles.

IMPORTANT NOTES:

1. You have no potential liability under **California Health and Safety Code §25249.6** if your business has nine (9) or fewer employees.
2. Using this form will NOT prevent the Attorney General, a district attorney, a city attorney, or a prosecutor in whose jurisdiction the violation is alleged to have occurred from filing an action over the same alleged violations, and that in any such action, the amount of civil penalty shall be reduced to reflect any payment made at this time.

Page 2

Date :

Name of Noticing Party or attorney for Noticing Party:

Address:

Phone number:

PART 2: TO BE COMPLETED BY THE ALLEGED VIOLATOR OR AUTHORIZED REPRESENTATIVE

Certification of Compliance

Accurate completion of this form will demonstrate that you are now in compliance with **California Health and Safety Code §25249.6** for the alleged violation listed above. You must complete and submit the form below to the Noticing Party at the address shown above, postmarked within 14 days of you receiving

this notice.

I hereby agree to pay, within 30 days of completion of this notice, a civil penalty of \$500 to the Noticing Party only and certify that I have complied with Health and Safety Code §25249.6 by (check only one of the following):

- ☐ Posting a warning or warnings about the alleged exposure that complies with the law, and attaching a copy of that warning and a photograph accurately showing its placement on my premises;
- ☐ Posting the warning or warnings demanded in writing by the Noticing Party, and attaching a copy of that warning and a photograph accurately its placement on my premises; OR
- ☐ Eliminating the alleged exposure, and attaching a statement accurately describing how the alleged exposure has been eliminated.

Certification

My statements on this form, and on any attachments to it, are true, complete, and correct to the best of my knowledge and belief and are made in good faith. I have carefully read the instructions to complete this form. I understand that if I make a false statement on this form, I may be subject to additional penalties under the Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65).

Signature of alleged violator or authorized representative Date

Name and title of signatory

FOR FURTHER INFORMATION ABOUT THE LAW OR REGULATIONS. . .

Contact the Office of Environmental Health Hazard Assessment's Proposition 65 Implementation Office at (916) 445-6900 or via e-mail at P65Public.Comments@oehha.ca.gov.

Certificate of Merit
Health & Safety Code Section 25249.7(d)

I, Fredric Evenson, hereby declare:

(1) This Certificate of Merit accompanies the attached sixty-day notice(s) in which it is alleged the parties identified in the notices have violated Health and Safety Code section 25249.6 by failing to provide clear and reasonable warnings.

(2) I am the attorney for the noticing party.

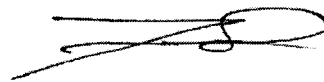
(3) I have consulted with one or more persons with relevant and appropriate experience or expertise who has reviewed facts, studies, or other data regarding the alleged exposure to the listed chemical that is the subject of the action.

(4) Based on the information obtained through those consultations, and on all other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for the private action" means that the information provides a credible basis that all elements of the plaintiff's case can be established and the information did not prove that the alleged violator will be able to establish any of the affirmative defenses set forth in the statute.

(5) The copy of this Certificate of Merit served on the Attorney General attaches to it factual information sufficient to establish the basis for this certificate, including the information identified in Health and Safety Code section 25249.7(h)(2), i.e., (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

Date: September 1, 2017

By:



Fredric Evenson

CERTIFICATE OF SERVICE

I am a California resident, over the age of 18 and not a party to this case. My business address is P.O. Box 1000, Santa Cruz, CA 95061.

On September 1, 2017, I served the following:

- 1) Notice of Violations: California Safe Drinking Water and Toxic Enforcement Act
- 2) Certificate of Merit: Health and Safety Code Section 25249.7(d)
- 3) Appendix A: The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary
- 4) Certificate of Service

by enclosing copies of the same in a sealed envelope addressed to each person shown below and depositing the envelope in the U.S. mail with postage fully prepaid for delivery by Certified Mail. Place of mailing: Santa Cruz, CA.

Cost Plus Inc. The Prentice-Hall Corporation System, Inc., Registered Agent 2711 Centerville Rd # 400 Wilmington, DE 19808-1660	Barry J. Feld, CEO Cost Plus, Inc. 1201 Marina Village Parkway Alameda, CA 94501
---	---

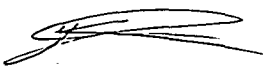
On September 1, 2017, I also served the following:

- 1) Notice of Violations: California Safe Drinking Water and Toxic Enforcement Act
- 2) Certificate of Merit: Health and Safety Code Section 25249.7(d)
- 3) Certificate of Merit (Attorney General Copy): Factual information sufficient to establish the basis of the Certificate of Merit (only sent to Attorney General)
- 4) Certificate of Service

by enclosing copies of the same in sealed envelopes addressed to each of the public prosecutors listed on the attached Service List with physical mailing addresses, and depositing the envelopes in the U.S. mail with postage fully prepaid for delivery by First Class Mail. Place of mailing: Santa Cruz, CA.

by sending portable document format (.pdf) files of the same to the electronic mail addresses to each of the public prosecutors identified by the California Attorney General as having authorized electronic service of notices. These public enforcement agencies appear on the attached Service List with their electronic mail addresses.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed September 1, 2017, at Santa Cruz, CA.



Yair Chaver

Service List – Public Prosecutors

Office of the District Attorney Alameda County 1225 Fallon Street, Room 900 Oakland, CA 94612	Office of the District Attorney Lassen County mlatimer@co.lassen.ca.us	Office of the District Attorney San Benito County 419 4th Street Hollister, CA 95023	Office of the District Attorney Tehama County P.O. Box 519 Red Bluff, CA 96080
Office of the District Attorney Alpine County P.O. Box 248 Markleeville, CA 96120	Office of the District Attorney Los Angeles County 211 W. Temple Street, Suite 1200 Los Angeles, CA 90012	Office of the District Attorney San Bernardino County 303 W. Third Street San Bernardino, CA 92415	Office of the District Attorney Trinity County P.O. Box 310 Weaverville, CA 96093
Office of the District Attorney Amador County 708 Court Street, #202 Jackson, CA 95642	Office of the District Attorney Madera County 209 West Yosemite Avenue Madera, CA 93637	Office of the District Attorney San Diego County 330 W. Broadway, Suite 1300 San Diego, CA 92101	Office of the District Attorney Tulare County Prop65@co.tulare.ca.us
Office of the District Attorney Butte County 25 County Center Drive Oroville, CA 95965	Office of the District Attorney Marin County 3501 Civic Center Drive, Room 130 San Rafael, CA 94903	Office of the District Attorney San Francisco County gregory.alker@sfgov.org	Office of the District Attorney Tulolumne County 423 N. Washington Street Sonora, CA 95370
Office of the District Attorney Calaveras County 891 Mountain Ranch Road San Andreas, CA 95249	Office of the District Attorney Mariposa County P.O. Box 730 Mariposa, CA 95338	Office of the District Attorney San Joaquin County DAConsumer.Environmental@sjcda.org	Office of the District Attorney Ventura County daspecialops@ventura.org
Office of the District Attorney Colusa County 346 5th Street, Suite 101 Colusa, CA 95932	Office of the District Attorney Mendocino County P.O. Box 1000 Ukiah, CA 95482	Office of the District Attorney San Luis Obispo County edobroth@co.slo.ca.us	Office of the District Attorney Yolo County cfeprd@yolocounty.org
Office of the District Attorney Contra Costa County sgrassini@contracostada.org	Office of the District Attorney Merced County 550 West Main Street Merced, CA 95340	Office of the District Attorney San Mateo County 400 County Center, Third Floor Redwood City, CA 94063	Office of the District Attorney Yuba County 215 Fifth Street, Suite 152 Marysville, CA 95901
Office of the District Attorney Del Norte County 450 H Street, Room 171 Crescent City, CA 95531	Office of the District Attorney Modoc County 204 S. Court Street Room 202 Alturas, CA 96101	Office of the District Attorney Santa Barbara County 1112 Santa Barbara Street Santa Barbara, CA 93101	Oakland City Attorney City Hall, 6th Floor 1 Frank Ogawa Plaza Oakland, California 94612
Office of the District Attorney El Dorado County 515 Main Street Placerville, CA 95667	Office of the District Attorney Mono County P.O. Box 617 Bridgeport, CA 93517	Office of the District Attorney Santa Clara County EPU@da.sccgov.org	Office of the City Attorney City of San Francisco City Hall, Room 234 1 Dr. Carlton B. Goodlett Pl. San Francisco, CA 94102
Office of the District Attorney Fresno County 2220 Tulare Street, Suite 1000 Fresno, CA 93721	Office of the District Attorney Monterey County Prop65DA@co.monterey.ca.us	Office of the District Attorney Santa Cruz County 701 Ocean Street, Room 200 Santa Cruz, CA 95060	Office of the City Attorney City of Sacramento 915 I Street, 4th Floor Sacramento, CA 95814
Office of the District Attorney Glenn County P.O. Box 430 Willows, CA 95988	Office of the District Attorney Napa County CEPD@countyofnapa.org	Office of the District Attorney Shasta County 1355 West Street Redding, CA 96001	Office of the City Attorney City of San Jose 200 E. Santa Clara St. San Jose, CA 95113
Office of the District Attorney Humboldt County 825 5th Street, 4th Floor Eureka, CA 95501	Office of the District Attorney Nevada County 201 Commercial Street Nevada City, CA 95959	Office of the District Attorney Sierra County P.O. Box 457 Downieville, CA 95936	Office of the City Attorney City of Los Angeles 200 N. Main Street, Suite 800 Los Angeles, CA 90012
Office of the District Attorney Imperial County 940 West Main Street, Suite 102 El Centro, CA 92243	Office of the District Attorney Orange County 401 Civic Center Drive West Santa Ana, CA 92701	Office of the District Attorney Siskiyou County P.O. Box 986 Yreka, CA 96097	Office of the City Attorney City of San Diego 1200 Third Ave., Suite 1620 San Diego, CA 92101
Office of the District Attorney Inyo County P.O. Box D Independence, CA 93526	Office of the District Attorney Placer County 10810 Justice Center Drive Roseville, CA 95678	Office of the District Attorney Solano County 675 Texas Street, Suite 4500 Fairfield, CA 94533	Proposition 65 Enforcement Reporting Attn: Prop 65 Coordinator 1515 Clay Street P.O. Box 70550 Oakland, CA 94612
Office of the District Attorney Kern County 1215 Truxtun Avenue Bakersfield, CA 93301	Office of the District Attorney Plumas County 520 Main Street, Room 404 Quincy, CA 95971	Office of the District Attorney Sonoma County jbarnes@sonoma-county.org	
Office of the District Attorney Kings County 1400 West Lacey Blvd. Hanford, CA 93230	Office of the District Attorney Riverside County Prop65@rivcoda.org	Office of the District Attorney Stanislaus County 832 12th Street, Suite 300 Modesto, CA 95354	
Office of the District Attorney Lake County 255 N. Forbes Street Lakeport, CA 95453	Office of the District Attorney Sacramento County Prop65@sacda.org	Office of the District Attorney Sutter County 446 Second Street, Suite 102 Yuba City, CA 95991	

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Fredric Evenson (SBN# 198059) Ecology Law Center P.O. Box 1000 Santa Cruz, CA 95061 TELEPHONE NO.: (831) 454-8216 FAX NO.: (415) 358-5695 ATTORNEY FOR (Name): Ecological Rights Foundation		<div style="font-size: 2em; font-weight: bold; margin: 0;">FILED</div> <div style="font-size: 0.8em; margin: 0;">FOR COURT USE ONLY</div> <div style="font-size: 1.2em; margin: 0;">San Francisco County Superior Court</div> <div style="font-size: 1.5em; margin: 0;">DEC 28 2017</div> <div style="font-size: 1.2em; margin: 0;">CLERK OF THE COURT</div> <div style="font-size: 0.8em; margin: 0;">BY: Deputy Clerk</div> <div style="font-size: 1.5em; margin: 0;">CCC-17-563382</div>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Francisco STREET ADDRESS: 400 McAllister St. MAILING ADDRESS: CITY AND ZIP CODE: San Francisco, CA 94102 BRANCH NAME:		
CASE NAME: Ecological Rights Foundation v. Cost Plus, Inc.		
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000)	<input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)	
Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)		CASE JUDGE: DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check **one** box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input checked="" type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
--	--	--

2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties
b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve
c. <input type="checkbox"/> Substantial amount of documentary evidence | d. <input type="checkbox"/> Large number of witnesses
e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
|--|--|

3. Remedies sought (check all that apply): a. ☒ monetary b. ☒ nonmonetary; declaratory or injunctive relief c. ☒ punitive

4. Number of causes of action (specify): One

5. This case ☐ is ☒ is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: December 28, 2017

Fredric Evenson

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

BY FAX
ONE LEGAL LLC

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you **must** complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort
Auto (22)—Personal Injury/Property Damage/Wrongful Death
Uninsured Motorist (46) (*if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto*)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort
Asbestos (04)
Asbestos Property Damage
Asbestos Personal Injury/Wrongful Death
Product Liability (*not asbestos or toxic/environmental*) (24)
Medical Malpractice (45)
Medical Malpractice—Physicians & Surgeons
Other Professional Health Care Malpractice

Other PI/PD/WD (23)
Premises Liability (e.g., slip and fall)
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
Intentional Infliction of Emotional Distress
Negligent Infliction of Emotional Distress
Other PI/PD/WD

Non-PI/PD/WD (Other) Tort
Business Tort/Unfair Business Practice (07)
Civil Rights (e.g., discrimination, false arrest) (*not civil harassment*) (08)
Defamation (e.g., slander, libel) (13)
Fraud (16)
Intellectual Property (19)
Professional Negligence (25)
Legal Malpractice
Other Professional Malpractice (*not medical or legal*)
Other Non-PI/PD/WD Tort (35)

Employment
Wrongful Termination (36)
Other Employment (15)

Contract
Breach of Contract/Warranty (06)
Breach of Rental/Lease Contract (*not unlawful detainer or wrongful eviction*)
Contract/Warranty Breach—Seller Plaintiff (*not fraud or negligence*)
Negligent Breach of Contract/Warranty
Other Breach of Contract/Warranty
Collections (e.g., money owed, open book accounts) (09)
Collection Case—Seller Plaintiff
Other Promissory Note/Collections Case
Insurance Coverage (*not provisionally complex*) (18)
Auto Subrogation
Other Coverage
Other Contract (37)
Contractual Fraud
Other Contract Dispute

Real Property
Eminent Domain/Inverse Condemnation (14)
Wrongful Eviction (33)
Other Real Property (e.g., quiet title) (26)
Writ of Possession of Real Property
Mortgage Foreclosure
Quiet Title
Other Real Property (*not eminent domain, landlord/tenant, or foreclosure*)

Unlawful Detainer
Commercial (31)
Residential (32)
Drugs (38) (*if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential*)

Judicial Review
Asset Forfeiture (05)
Petition Re: Arbitration Award (11)
Writ of Mandate (02)
Writ—Administrative Mandamus
Writ—Mandamus on Limited Court Case Matter
Writ—Other Limited Court Case Review
Other Judicial Review (39)
Review of Health Officer Order
Notice of Appeal—Labor Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)
Antitrust/Trade Regulation (03)
Construction Defect (10)
Claims Involving Mass Tort (40)
Securities Litigation (28)
Environmental/Toxic Tort (30)
Insurance Coverage Claims (*arising from provisionally complex case type listed above*) (41)

Enforcement of Judgment
Enforcement of Judgment (20)
Abstract of Judgment (Out of County)
Confession of Judgment (*non-domestic relations*)
Sister State Judgment
Administrative Agency Award (*not unpaid taxes*)
Petition/Certification of Entry of Judgment on Unpaid Taxes
Other Enforcement of Judgment Case

Miscellaneous Civil Complaint
RICO (27)
Other Complaint (*not specified above*) (42)
Declaratory Relief Only
Injunctive Relief Only (*non-harassment*)
Mechanics Lien
Other Commercial Complaint Case (*non-tort/non-complex*)
Other Civil Complaint (*non-tort/non-complex*)

Miscellaneous Civil Petition
Partnership and Corporate Governance (21)
Other Petition (*not specified above*) (43)
Civil Harassment
Workplace Violence
Elder/Dependent Adult Abuse
Election Contest
Petition for Name Change
Petition for Relief From Late Claim
Other Civil Petition